

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES HUNT,

Plaintiff,

-against-

BRONX LEBANON HOSPITAL, et al.

Defendants.

22-CV-0054 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated May 16, 2022, the Court dismissed the complaint for failure to state a claim and granted Plaintiff 30 days' leave to file an amended complaint. (ECF 8.) Plaintiff did not file an amended pleading within the specified time, and on June 22, 2022, the Court entered judgment. (ECF 9.) On August 24, 2022, Plaintiff filed a notice of appeal and a motion for an extension of time of file the notice of appeal. (ECF Nos. 10-11.) For the reasons set forth below, the Court denies Plaintiff's motion for an extension of time to file his notice of appeal.

DISCUSSION

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, a notice of appeal in a civil case must be filed within 30 days after entry of judgment. A district court may grant a limited extension of time to file a notice of appeal if: (1) a party moves for the extension no later than 30 days after the time prescribed by Rule 4(a) expires; and (2) the moving party establishes excusable neglect or good cause. Fed. R. App. P. 4(a)(5).

Here, Plaintiff filed the motion on August 24, 2022, 63 day after judgment was entered on June 22, 2022.¹ Because Plaintiff's motion was not filed within 60 days after the entry of judgment, the Court does not have authority under Rule 4(a)(1)(A) to extend the time to appeal. *See Goode v. Winkler*, 252 F.3d 242, 245 (2d Cir. 2001) (holding that district court had no authority to consider pro se motion under Fed. R. App. P. 4(a)(5) filed over 30 days after expiration of initial appeal period). His motion is therefore denied.

CONCLUSION

The Court denies Plaintiff's motion for an extension of time to file a notice of appeal. (ECF 10.)

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 28, 2022
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

¹ The time to file the motion for an extension of time expired on August 21, 2022, which was a Sunday. Under Rule 6(a)(1)(C) of the Federal Rules of Civil Procedure, the last day to file the motion extended to Monday, August 22, 2022.